

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DOROTHY A. LANGFORD,

Plaintiff,

v.

McDONALD'S CORPORATION and
BUDDY ROGERS,

Defendants.

CIVIL ACTION NUMBER:
2:06-cv-01025-WKW

DEFENDANT BUDDY ROGERS' REPLY
IN SUPPORT OF HIS MOTION TO DISMISS

Buddy Rogers, Defendant in the above-styled action (hereinafter "Defendant" or "Defendant Rogers"), pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure, submits this reply in support of his Motion to Dismiss:

1. In response to Defendant Rogers' Motion to Dismiss, Plaintiff has moved to amend her Complaint for a second time, this time to add her former employer, DBR, Inc., as a Defendant. DBR, Inc. has not opposed Plaintiff's Motion to Amend.

2. As this Court has held, consistent with Eleventh Circuit law, where an employer is named in a Title VII claim, "to proceed against [an employee] in his official capacity would be redundant." *Quillen v. American Tobacco Co.*, 874 F.Supp. 1285, 1296 (M.D. Ala. 1995).

3. "The significance of *Busby* is that 'even though Congress defined 'employer' to include 'any agent,' 42 U.S.C.A. § 2000e(b), this provision **does not impose individual liability** but **only holds the employer accountable** for the acts of its individual agents.'" *Garrison v. Montgomery County Bd. of Educ.*, 2006 WL 625876

(M.D. Ala. 2006) (quoting *Smith v. Capitol City Club of Montgomery*, 850 F.Supp. 976, 978 (M.D. Ala. 1994)).

4. Because Plaintiff seeks to add her former employer as a defendant in this case, her claims against Defendant Rogers in his official capacity are redundant. *Quillen, supra*. Because Title VII does not impose individual liability, Plaintiff's claims against Defendant Rogers in his individual capacity are due to be dismissed. *Garrison, supra*.

WHEREFORE, Defendant Rogers respectfully requests that this Court dismiss the claims asserted against him in Plaintiff's Amended Complaint For Damages and grant any such other relief to which he may be entitled under law or statute, or as this Court may deem just and proper.

Respectfully Submitted,

s/Sally B. Waudby
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CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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